

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Dominique S. Booker,)	
)	
Plaintiff,)	Case No. 1:12-CV-665
)	
vs.)	
)	
Carolyn Colvin, Acting)	
Commissioner of Social Security,)	
)	
Defendant.)	

ORDER

On November 1, 2013, Magistrate Judge Litkovitz entered a Report and Recommendation (Doc. No. 26) recommending that Plaintiff's motion for attorney's fees be denied (Doc. No. 23) and that the Commissioner's motion to alter judgment (Doc. No. 24) be granted. Neither party has objected to Judge Litkovitz's report.

Having reviewed the report de novo pursuant to Fed. R. Civ. P. 72(b), the Court concludes that it is correct. A Sentence Six remand, such as that entered by the Court in this case (Doc. No. 21), is not a final judgment and, consequently does not entitle a claimant to an award of attorney's fees under the Equal Access to Justice Act as the prevailing party. Marshall v. Commissioner of Social Sec., 444 F.3d 837, 841-42 (6th Cir. 2006).

Accordingly, the Court **ADOPTS** the Report and Recommendation. Plaintiff's motion for attorney's fees is **DENIED WITHOUT PREJUDICE TO RENEWAL**. The

Commissioner's motion to alter judgment is well-taken and is **GRANTED**. The judgment entered by the Court on August 19, 2013 (Doc. No. 22) is **VACATED**.

IT IS SO ORDERED

Date November 25, 2013

s/Sandra S. Beckwith
Sandra S. Beckwith
Senior United States District Judge